



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0152]

RIN 1625-AA00, 1625-AA87

Safety and Security Zones, Jacksonville Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule

SUMMARY: The Coast Guard has modified several aspects of the safety and security zones within the Sector Jacksonville Captain of the Port Zone. This action was necessary to consolidate, clarify, and otherwise modify safety and security zone regulations to eliminate unnecessary regulations and better meet the safety and security needs of the Ports of Jacksonville, Fernandina, and Canaveral. This action modifies existing safety and security zones; establishes safety zones governing port regulation in the event of natural and other disasters; and removes unnecessary or superfluous safety and security zones.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0152. To view documents mentioned in this

preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Allan Storm, Sector Jacksonville Office of Waterways Management, U.S. Coast Guard; telephone (904) 564-7563, e-mail Allan.H.Storm@uscg.mil If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
COTP	Captain of the Port
GRT	Gross Register Ton

A. Regulatory History and Information

On June 17, 2014, we published a Notice of Proposed Rulemaking (NPRM) entitled Safety and Security Zones:

Jacksonville Captain of the Port Zone in the Federal Register (79 FR 34674) .

In 1994, the USCG published a safety zone around firework barges between the Hart and Acosta Bridges within the Port of Jacksonville. As of 2008, there are 22 special local regulations listed under 33 CFR 100.701 which establish a 500 yard regulated area around various barges for firework display events. This regulation revises the current regulations to add safety zone regulations during natural and other disasters. It also implements safety zones for all fire work displays in the Jacksonville Captain of the Port Zone.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of these regulations is to ensure the safety of life on navigable waters of the United States through the addition of regulations applicable during disasters and firework displays within the Jacksonville Captain of the Port Zone.

C. Discussion of Comments, Changes and the Final Rule

Public meetings were held on June 23, 2014 in Jacksonville and June 25, 2014 in Port Canaveral. No comments were received

during the meetings or the NPRM comment period.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This regulation is not a significant regulatory action because most of the regulations already exist in some form such as special local regulations for firework displays. The regulations that are being added are not expected to have a significant regulatory action due to the infrequency of use for the safety zones around firework barges. The removal of the safety and security zone for Blount Island would have no effect as the Restricted Area set in place by the Army Corps of Engineers will remain in effect.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-

612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a

significant effect on the human environment. This rule involves disestablishing of a safety and security zone, addition of port regulations that would be otherwise published as a Temporary Final Rule, and addition of safety zones to include all firework barge displays within the Jacksonville Captain of the Port Zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.720 to read as follows:

§ 165.720 Safety Zone; Natural and Other Disasters in Ports of Jacksonville, Fernandina, and Canaveral, Florida.

(a) Regulated Areas. The following areas are established as safety zones during the specified conditions:

(1) Fernandina, FL. All waters within the Cumberland Sound and Amelia River encompassed within the following locations: starting at the demarcation line drawn across the seaward extremity of the St. Marys River Entrance Jetties; thence following the shoreline north to Stafford Island; thence north to Point 1 in position 30°50'00"N, 81°29'10"W; thence west to Point 2 in position 30°50'00"N, 81°30'47"W; thence southwest to Kings Bay in position 30°48'42"N, 81°31'27"W; thence south following the shoreline south to point 3 in position 30°40'30"N, 81°28'38"W; thence southwest to R "18" at Point 4 30°39'57"N, 81°29'04"W; thence southeast to Point 5 30°39'48"N, 81°28'57"W; thence following the shoreline northeast back to origin.

(2) Jacksonville, FL. All waters within the Port of Jacksonville, FL encompassed within the following locations: starting at the demarcation line drawn across the seaward extremity of the St. Johns River Entrance Jetties, thence following the northern riverbank west to the Sister's Creek Bridge, thence following the riverbank west to the Interstate 95 Trout River Bridge, thence following the riverbank south to the

Henry H. Buckman Bridge, thence following the eastern riverbank back to origin.

(3) Canaveral, FL. All waters within the Canaveral Barge Canal in Port Canaveral, FL encompassed within the following locations: starting at the demarcation line drawn across the seaward extremity of the Port Canaveral Entrance Channel Jetties, thence following the northern shoreline west to the SR401 Bridge, thence following the southern shoreline back to origin.

(4) All coordinates are North American Datum 1983.

(b) Definition. (1) The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(2) *Hurricane Port Condition YANKEE*. Set when weather advisories indicate that sustained Gale Force winds from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours.

(3) *Hurricane Port Condition ZULU*. Set when weather advisories indicate that sustained Gale Force winds from a Tropical or hurricane force storm are predicted to make landfall at the port within 12 hours.

(c) Regulations. (1) *Hurricane Port Condition YANKEE*.

All commercial, oceangoing vessels and barges over 500 GRT as measured under Title 46 United States Code Section 14502 or an alternate tonnage established as 6,000 gross tonnage as measured under 46 U.S.C. 14302 (GT ITC) are prohibited from entering in any of the regulated areas designated as being in Port Condition YANKEE within the COTP Zone Jacksonville. Oceangoing commercial vessel traffic outbound will be authorized to transit through the regulated areas until Port Condition ZULU. Additionally, in the Port of Canaveral, no vessel, regardless of size or service, will be allowed to transit through the Port Canaveral Barge Canal upon the setting of Port Condition YANKEE.

(2) *Hurricane Port Condition ZULU.* All commercial, oceangoing vessels and barges over 500 GRT as measured under Title 46 United States Code Section 14502 or an alternate tonnage established as 6,000 gross tonnage as measured under 46 U.S.C. 14302 (GT ITC) are prohibited from transiting or remaining in any of the regulated areas designated as being in Port Condition ZULU within COTP Zone Jacksonville. All ship-to-shore cargo operations must cease 6 hours prior to setting Port Condition Zulu.

(3) *Emergency Regulation for Other Disasters.* Any natural or other disasters that are to affect the Jacksonville COTP Zone will result in the prohibition of commercial vessel traffic over 500 GRT as measured under Title 46 United States Code Section

14502 or an alternate tonnage established as 6,000 gross tonnage as measured under 46 U.S.C. 14302 (GT ITC) transiting or remaining in any of the regulated areas predicted to be effected as designated by the COTP Jacksonville.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain in the regulated area may contact the Captain of the Port Jacksonville via telephone at (904)-564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain in the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(5) Coast Guard Sector Jacksonville will attempt to notify the maritime community of periods during which these safety zones will be in effect via Broadcast Notice to Mariners or by on-scene designated representatives.

3. Add § 165.723 to read as follows:

§ 165.723 Safety Zone; Firework Displays in Captain of the Port Zone Jacksonville, Florida.

(a) Regulated Area. The following area is established as a safety zone during the specified conditions: All waters within the Jacksonville COTP Zone within a 500 yard radius of a firework

barge or barges during the storage, preparation, and launching of fireworks.

(1) The Coast Guard realizes that some large scale events, such as those with many participants or spectators, or those that could severely restrict navigation or pose a significant hazard, may still require separate special local regulations or safety zones that address the specific peculiarities of the event. In those situations, the Coast Guard will create special local regulations or safety zones specifically for the event, and those regulations will supersede the regulations in this rule.

(2) All coordinates are North American Datum 1983.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Coast Guard Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain in the regulated area may contact the

Captain of the Port Jacksonville via telephone at (904)-564-7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain in the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners or by on-scene designated representatives.

(4) This regulation does not apply to authorized law enforcement agencies operating within the regulated area.

Dated: February 19, 2015

T. G. ALLAN, JR.

Captain, U.S. Coast Guard

Captain of the Port Jacksonville

[FR Doc. 2015-04280 Filed 02/27/2015 at 8:45 am; Publication
Date: 03/02/2015]